DOCKET NO. 2009-26

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
KENNETH WILLIAMS, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 12th day of FEB., 2009, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Kenneth Williams, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on January 9, 2009. The Respondent was represented by counsel, Lucas Mauro. The Board was represented at the conference by the Board’s Enforcement Committee.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, wishes to waive a formal adjudicative hearing and thereby informally dispose of the issues without a formal adjudication. Respondent agrees to comply with the terms and conditions set forth in this Order. In waiving an adjudicative hearing, Respondent acknowledges his understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon the recommendation of the Enforcement Committee and with Respondent’s consent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order as set forth below.

Findings of Fact

1. On April 7, 2008, Emeil and Arlinda Carlson of Houston, Texas, presented “Bighead”, a six month-old male Dachshund dog to Kenneth H. Williams, D.V.M., Houston, Texas, of Heights Veterinary Clinic for not eating, not drinking, and the inability to produce a bowel movement.

2. While being weighed, “Bighead” urinated. The urine was green in color. The veterinary technician gathered a sample of the urine. Dr. Williams examined “Bighead” and conducted a Parvo test and an internal parasite test, and the results of both were negative. The Carlsons stated that “Bighead” did not have a fever or diarrhea. Dr. Williams informed the Carlsons that “Bighead” could still have Parvo even with the negative test results. Dr. Williams administered IV fluid, Cernia, Cerenia, and a deworming medication. Dr. Williams recommended the Carlsons administer Pedialyte as much as possible at home. Dr. Williams did not take any radiographs.

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3. On April 8, 2008, a clinic staff member called the Carlsons to check on “Bighead’s” condition. The Carlsons stated that there was no change in “Bighead’s” condition. In addition, “Bighead” was now vomiting. Dr. Williams asked for “Bighead” to be brought in for a reexamination. Dr. Williams reexamined the dog and attempted to obtain a stool sample, but there was an insufficient quantity to test. Dr. Williams administered an injection of Cerenia and told the Carlsons to continue to provide Pedialyte.

4. On April 9, 2008, the Carlsons called the clinic to inform Dr. Williams that “Bighead’s” condition had still not improved. Dr. Williams re-examined “Bighead” and again attempted to obtain a stool sample, but there was an insufficient quantity to test. Dr. Williams suggested that the Carlsons feed “Bighead” baby food in an attempt to get the dog to start eating again. Dr. Williams administered IV fluids, Cerenia, Durapen and Multi B Super. Dr. Williams also prescribed Reglan tablets. The Carlsons asked a technician if radiographs should be taken, although this request was never conveyed to Dr. Williams.

5. On April 10, 2008, “Bighead” was presented to Narender R. Cheemerla, D.V.M. of the Affordable Pet Clinic, Houston, Texas, for a second opinion. Dr. Cheemerla examined “Bighead” and performed abdominal radiographs. Dr. Cheemerla told the Carlsons that “Bighead” had an abdominal obstruction and needed exploratory surgery.

6. Immediately, the Carlsons went to Dr. William’s clinic to show him the radiographs, Dr. Williams was out of town and Dr. Daniel V. Hendrix, D.V.M., examined “Bighead.” Dr. Hendrix reviewed the radiographs and tested the dog’s stool, Dr. Hendrix stated there was no need for exploratory surgery. Dr. Hendrix expected “Bighead” would pass the fecal matter on its own. Dr. Hendrix told the Carlsons to feed the dog wheat bread or other food with high fiber. Dr. Hendrix prescribed Metronidazole

7. On April 11, 2008, the Carlsons called Dr. Hendrix to inform him that “Bighead” still had not had a bowel movement. The Carlsons informed Dr. Hendrix that “Bighead” appeared to be in pain and was turning from side to side. Dr. Hendrix informed the Carlsons that he had examined the dog’s stool on April 10, 2008 and there was nothing abnormal. Dr. Hendrix again repeated that “Bighead” should pass the fecal matter on its own. Dr. Hendrix suggested administering enema to help pass the fecal matter. The Carlsons immediately took the dog to Dr. Hendrix. Dr. Hendrix examined the dog and determined that its intestines had intussusceptions. Dr. Hendrix had an associate, Susan L. Fulton, D.V.M. examine the dog. Dr. Fulton performed the exploratory surgery immediately, found a string foreign body, and determined the dog’s intestines were too damaged to save. The Carlsons opted to euthanize “Bighead.”

8. Dr. William’s failure to perform radiographs and/or other diagnostic tests on “Bighead” and misdiagnosis of “Bighead’s” condition does not represent the same degree of humane care, skill, and diligence in treating
patients as is ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in Houston, Texas or similar communities. Dr. William’s failure to perform radiographs and/or other diagnostic tests led to the misdiagnosis of “Bighead” and complications which contributed to the early death of “Bighead.”

Conclusions of Law

1. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board’s Rules.

2. Based on Findings of Fact 1-8, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT, of the Board’s Rules of Professional Conduct, which requires veterinarians to exercise the same degree of humane care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice, or in similar communities.

3. Based on Finding of Fact 3 and Conclusions of Law 1 and 2, Respondent has violated Section 801.402 (6) of the Veterinary Licensing Act, Texas Occupations Code, and is subject to disciplinary action by the Board:

801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. A person is subject to denial of a license or to disciplinary action under Section 801.401 if the person:

(6) engages in practices or conduct that violates the board’s rules of professional conduct.

4. Based on Conclusions of Law 1 through 3, Respondent is subject to disciplinary action under Section 801.401 of the Veterinary Licensing Act, Texas Occupations Code:

801.401. DISCIPLINARY POWERS OF BOARD. (a) If an applicant or license holder is subject to denial of a license or to disciplinary action under Section 801.402, the Board may:

(1) refuse to examine an applicant or to issue or renew a license;
(2) revoke or suspend a license;
(3) place on probation a license holder or person whose license has been suspended;
(4) reprimand a license holder; or
(5) impose an administrative penalty.

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NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Kenneth Williams, D.V.M., be INFORMALLY REPRIMANDED.

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent pay, within 30 days of the date of this Order, RESTITUTION of ONE HUNDRED AND FIFTY SIX DOLLARS AND NINETY EIGHT CENTS ($156.98). If Respondent fails to pay the restitution within 30 days of the date of this Order, enforcement action will be taken.

The Board further ORDERS that:

1. Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act, and the laws of the State of Texas and the United States.

2. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Order.

3. Failure by Respondent to comply with the terms of this Agreed Order or with any other provisions of the Licensing Act or the Board Rules, may result in further disciplinary action.

Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.

Respondent, by signing this Agreed Order, waives his right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that he had the right to be represented by legal counsel in this matter.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR UNDER THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

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The effective date of this Agreed Order shall be the date it is adopted by the Board.

I, KENNETH WILLIAMS, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THAT THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE:

[Signature]
Kenneth Williams, D.V.M.

Date

STATE OF TEXAS  
COUNTY OF HAIMIS  

BEFORE ME, on this day, personally appeared KENNETH WILLIAMS, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 5th day of February, 2009.

[Signature]
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the __ day of ________, 2009.

[B. Alldredge, Jr., D.V.M., President]